

Kentucky Tax Alert



A KRC PUBLICATION FOR THE TAX PROFESSIONAL

March 2002 • Vol. 21, No. 2

30% Bonus Depreciation, Five-Year Net Operating Loss Carryback and Other Provisions of the Job Creation and Worker Assistance Act of 2002 Do Not Apply for Kentucky

Changes to federal income tax law made after the Internal Revenue Code reference date in KRS 141.010(3) do not apply unless adopted by the Kentucky General Assembly. The Internal Revenue Code reference date in KRS 141.010(3) is currently December 31, 1999. House Bill 457, if passed, will, for taxable years beginning after December 31, 2001, advance the code date to December 31, 2001, **exclusive of any amendments made subsequent to that date**. Since President Bush signed the Job Creation and Worker Assistance Act of 2002 (HR 3090) into law on March 9, 2002, the provisions of this Act do not apply to Kentucky.

You do not need to adjust your Kentucky return if you filed your return prior to the enactment of the Job Creation and Worker Assistance Act of 2002 or if none of the new provisions apply to your federal tax return. For all others, you will need to make an adjustment to reflect the differences in allowable deductions on your Kentucky return. Additional information on how to adjust for depreciation and other differences will be available in the near future at <http://revenue.state.ky.us>.

Military Personnel and Certain U.S. Civilians Now Eligible for Combat Zone Tax Benefits Under Bush Executive Order and Defense Department Certification

President Bush has issued an executive order designating Afghanistan and the airspace above as a combat zone for tax relief purposes. Executive Order (E.O.) 13239, dated December 12, 2001, designates September 19, 2001, as the date on which combatant activities began in the zone. Military pay during months served in the combat zone will be exempt from taxes and will not be subject to income tax withholding under Code Sec. 112.

Separately, the Defense Department (DOD) on December 14 certified that military personnel in Uzbekistan, Kyrgyzstan, Pakistan, Tajikistan, and Jordan are eligible for all combat zone-related tax benefits due to their service in direct support of military operations in the Afghanistan combat zone, as designated by E.O. 13239. The effective date of DOD certification is September 19, 2001, for Pakistan, Tajikistan, and Jordan, and October 1, 2001, for Kyrgyzstan and Uzbekistan, a Pentagon official confirmed. The DOD certification is pursuant to Reg. Sec. 1.112-1 and Rev. Rul. 70-621, 1970-2 CB 17.

There is a limit on the tax exclusion for commissioned officers in the designated combat zone area, according to a Pentagon official. Under E.O. 13239, the tax exclusion applies to commissioned officer pay up to \$4,893.60 per month, confirmed LTC Thomas K. Emswiler, Executive Director of Armed Forces Tax Council at the Defense Department. An additional \$150 per month is excludable from income taxes for military personnel who are eligible to receive hostile fire or imminent danger pay, Emswiler advised CCH.

Additional Tax Benefits

Other combat zone tax benefits include relief from certain telephone excise taxes on telephone service that originates in a combat

zone, an extension for filing and paying income taxes, as well as relief from certain penalties and interest. The extended filing period also applies to accredited journalists and relief workers in the combat zone area, Emswiler confirmed. Those persons eligible for the extension do not have to file their taxes for at least 180 days after leaving the combat zone. The extended filing period also applies to civilian personnel acting under the direction of the armed forces in support of military operations in the Afghanistan combat zone, according to the Pentagon official.

Benefits for Families of Deceased or Missing in Action

Emswiler noted other potential tax benefits under the Internal Revenue Code (IRC) to the families of military personnel who die or who are missing in action. Code Sec. 692 benefits provide certain income tax relief if an individual dies while serving in a combat zone or is in missing status. Estate tax relief is also provided for members of the armed forces who die while serving in a combat zone.

By Paula Cruickshank, CCH News Staff

Kentucky Differences

Kentucky follows federal rules on exclusions of income. Under KRS 141.215, Kentucky allows a 12 month extension for filing and paying of taxes after leaving the combat zone instead of the 180 days allowed by the IRC.

KRS 141.215 Deferred Filing of Returns and Payment of Taxes

Members of the Army, Navy, Marines, Air Force, or Public Health Service of the United States government who serve in an area designated as a combat zone by presidential proclamation or members who are serving on active duty outside the United States in Operation Desert Shield or Operation Desert Storm and who are required by law to file an income tax return and pay income taxes to the State of Kentucky shall not be required to file the return and pay the taxes, which would otherwise become due during the period of service, until twelve (12) months after the service.

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Form 8453-K No Longer Required for Electronic Filers

In a continuing effort to reduce paperwork and enhance the electronic filing of individual income tax returns, KRC is changing requirements relating to Form 8453-K, Kentucky Individual Income Tax Declaration for Electronic Filing.

The use of advanced technology and the availability of more electronic information provides the commonwealth with more efficient methods to ensure taxpayers are complying with the applicable tax laws. Therefore, KRC is amending our 2001 instructions for filing Form 8453-K. Effective immediately, the Electronic Return Originator (ERO) will not be required to mail Form 8453-K to KRC as in the past. Instead, KRC is establishing the following guidelines for Form 8453-K:

- Fed/State E-file with a federal PIN—For returns filed via this method, Form 8453-K is not required. The use of the federal PIN meets signature requirements for the Kentucky return.

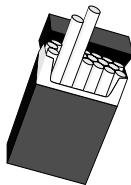


- Fed/State E-file without a federal PIN—For returns filed via this method, Form 8453-K is required. This document does **not** need to be mailed to KRC. EROs must retain them a period of three years.
- Online Filing—For returns filed via this method, Form 8453-K is required. This document does **not** need to be mailed to KRC. Taxpayers must retain the form for a period of three years.
- If you have already mailed Forms 8453-K for this processing season, they will be maintained in KRC files for the three-year retention period. You should discontinue future mailings of these documents.

This measure further expedites the electronic filing process. If you have any questions or require additional information, do not hesitate to contact the Electronic Filing Help Desk at (502) 564-5370 or any of our 11 taxpayer service centers around the state. As always, we welcome any feedback or suggestions to further improve this process. Thank you for your participation in electronic filing.

Cigarette Wholesalers and Unclassified Acquirers Reminder

Cigarette wholesalers and unclassified acquirers are now required to file with KRC a copy of all customs certificates required by 19 U.S.C. sec 1681 a(c) for entry of cigarettes into the United States. The newly revised Revenue Form 73A420, Monthly Report of Cigarette Wholesaler, which will be used to report this information, will be made available to wholesalers and unclassified acquirers by July 1, 2002. All taxpayers will use Schedule A of the report to record the name of the importer from whom the cigarettes were directly purchased and, if the actual certificates are not available, the entry number of the customs certificates associated with the importation. Although certificates are due by the fifteenth business day of each month, wholesalers should attach customs certificates to Revenue Form 73A420, Monthly Report of Cigarette Wholesaler, which is due on the twentieth of each month. HB 279 of year 2001 may be viewed in its entirety at www.lrc.state.ky.us/home.htm. If you have additional questions, contact the Miscellaneous Tax Section at (502) 564-6823.



Lexington Taxpayer Service Center Relocates

KRC's Lexington Taxpayer Service Center (TSC) located in the National City Plaza, 301 E. Main Street closed Jan. 18, 2002, and moved to Frankfort. The new Central Kentucky TSC opened in Frankfort at KRC headquarters, 200 Fair Oaks Lane off Wilkinson Boulevard. The mailing address is P.O. Box 657, Frankfort, KY 40602-0657. For taxpayer assistance, call (502) 564-4581. The new Central Kentucky TSC will serve the same 16 counties that were covered by the Lexington office. The counties are Anderson, Bourbon, Boyle, Clark, Fayette, Franklin, Garrard, Jessamine, Madison, Marion, Mercer, Montgomery, Nelson, Scott, Washington, and Woodford. State income tax forms are available in Lexington at the IRS office, 1500 Leestown Road and from KRC's website at <http://revenue.state.ky.us>.



Tax Refund Information Available by Phone

Information on Kentucky individual income tax refunds is available 24 hours per day through KRC's Automated Refund and Tax Information System (ARTIS). Call (502) 564-1600 from a touch-tone telephone to verify KRC's receipt of the return or when the refund was mailed.



To use ARTIS, taxpayers must know the Social Security number listed first on the return, and the exact whole-dollar amount of the refund.

Acknowledgment of receipt of a return is available for taxpayers using both labels provided by KRC on their tax form packets or on postcards. Labels are provided for the envelope and the tax return.

For taxpayers not using both labels, acknowledgment is not available until the return is processed. These taxpayers should wait eight weeks after mailing their return before calling ARTIS.

Callers who do not receive a refund mailing date from ARTIS should allow seven days before calling again.

ARTIS is automatically available to all taxpayers filing their individual income tax returns electronically.

Guidelines for Requesting Extensions to File 2001 Kentucky Individual Income Tax Returns

Taxpayers may obtain an extension of time within which to file their Kentucky income tax returns by filing an Application for Extension of Time to File, Form 40A102. KRC also accepts a federal extension. If tax is due, attach a check made payable to the Kentucky State Treasurer to either Form 40A102 or a copy of the federal extension and mail by April 15, 2002. (A copy of the application for federal extension should not be mailed to KRC on April 15, 2002, unless tax is due.) When the Kentucky individual income tax return is filed, a copy of Form 40A102, the automatic federal extension, or approved federal extension must be attached to the Kentucky individual income tax return in order for a taxpayer to avoid a late filing penalty.

Because an extension of time to file a return does not extend the time to pay a tax liability, interest will accrue on the tax liability unpaid as of April 15, 2002, until paid. In addition to interest, KRC will assess a late payment penalty. If a taxpayer can demonstrate that the delay in filing the return or remitting the payment is due to reasonable cause, penalties—but not interest—may be reduced or waived.

Individual income tax filers are also reminded that the first quarterly estimated payment for taxable year 2002 is due April 15, 2002.

Common Errors on Individual Income Tax Returns

Following is a list of the most common errors appearing on 2001 Kentucky individual income tax returns. If errors are avoided, processing time is minimized and refunds, if due, are received more quickly.



- ✍ Handwritten Changes on Tax Preparation Software—Taxpayers should reprint any changes on the return if it was prepared by tax preparation software. Do not write changes on the return.
- ✍ Wrong Standard Deduction Taken—Many taxpayers are not taking the 2001 standard deduction of \$1,750, but instead continue to use last year's deduction of \$1,700.
- ✍ Labels Used Improperly—Taxpayers should use the preprinted labels received with their tax forms or on postcards. Taxpayers should also make sure they place the labels in the proper locations. One label is intended for the return itself; the other should be used on the envelope in which the return is mailed to KRC. Taxpayers should verify the information printed on the labels. If the address is incorrect, mark through it and write in the correct address. If the name or taxpayer identification number is incorrect, do not use the label. Preparers should ensure that the correct label is attached to the proper return. Use of preprinted labels does not increase the chances for an audit. Instead, it speeds processing and the mailing of any refund due the taxpayer.
- ✍ Low Income Credit—Taxpayers are using the Kentucky taxable income instead of the Kentucky adjusted gross income (AGI) as the basis for computing the low income credit. For married couples, the low income credit is based on the combined Kentucky AGI. Many taxpayers fail to take advantage of this credit when entitled to it.
- ✍ Child and Dependent Care Credit—The Kentucky child and dependent care credit is 20 percent of the federal child care credit, not the child care expense.

- ✍ Underestimated Tax Penalty and Use of Form 2210-K—Preparers should calculate any underestimated tax penalties for their clients and instruct them to pay the penalty when returns are filed. The minimum penalty is \$25. Underestimated tax penalties must be reported on Form 2210-K, which should be attached to Form 740. If Form 2210-K is attached, the appropriate box on Form 740 must be checked.
- ✍ Withholding Statements not Attached—Taxpayers should attach wage or other withholding statements to their returns. Be sure to attach Kentucky copies of the wage and tax statements. Local statements which do not list Kentucky withholding are being sent in error. Staple the statements to the top page *only* of the return.
- ✍ Withholding Amounts Reported in Error—Withholding amounts reported on tax returns should match the amounts reported on withholding statements.
- ✍ Returns not Signed—Taxpayers should be sure to sign their returns.
- ✍ Copies of Federal Returns not Attached—When applicable, taxpayers must attach copies of federal returns and schedules. Make sure that the original Kentucky form is sent to KRC and the original federal return with schedules is sent to the Internal Revenue Service. KRC is receiving original federal returns instead of copies.
- ✍ Wrong Envelope Used—Taxpayers should use the blue envelope for refund returns and the yellow envelope for pay returns.
- ✍ Tax Tables—Taxpayers should recheck the tax table to ensure the correct line was used for their taxable income and number of tax credits claimed, and the correct amount of tax was entered in the proper place on the return.
- ✍ Incorrect Mathematical Calculations—Taxpayers should review their calculations to ensure the totals are correct.

For assistance in completing your Kentucky individual income tax return, contact the Individual Income Tax Assistance Section, (502) 564-4581, or any of KRC's 11 taxpayer service centers.

Revocation of Exemption from Self-Employment Tax

If you are a minister, a member of a Religious Order or a Christian Science Practitioner, and are exempt from self-employment tax because you have an approved IRS Form 4361, you have until April 15, 2002, to revoke that exemption. This deadline is extended beyond April 15, 2002, if you get an extension to file your 2001 return.

The Ticket to Work and Work Incentives Improvement Act of 1999 provides a window of opportunity for certain individuals to revoke their approved IRS Form 4361, *Application for Exemption from Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners*. Only elections that were effective for the tax year including Dec. 17, 1999, may be revoked under this provision. The revocation will be effective for either 2000 or 2001 and all later years.



If you choose to revoke your exemption:

- you will be covered under the Social Security System, and
- your earnings will be subject to self-employment tax.

Once you revoke the exemption, you can **never again** elect exemption from self-employment tax.

To revoke the exemption, you must complete and file IRS Form 2031, *Revocation of Exemption from Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners*. You may file your form with the IRS by fax, (859) 292-7867 or by mail:

Internal Revenue Service
Stop 14M
Attn: Exemption Revocation
P.O. Box 12267
Covington, KY 41012-0267

Additional information is available in Publication 517, *Social Security and Other Information for Members of the Clergy and Religious Workers*. Form 2031 and Publication 517 can be downloaded from the IRS Web site at www.irs.gov specific links:

<http://ftp.fedworld.gov/pub/irs-pdf/f2031.pdf>

<http://ftp.fedworld.gov/pub/irs-pdf/p517.pdf>

You may call (800) 829-3676 and request that a copy be mailed to you. Information to assist in the researching of the tax law that surrounds this topic can be found at:

<http://www.irs.gov/businesses/display/>

[0,i1%3D2%26genericld%3D23116,00.html](http://www.irs.gov/businesses/display/0,i1%3D2%26genericld%3D23116,00.html)

If you need further information regarding this election, call (800) 829-1040 between the hours of 7 a.m. and 10 p.m., Monday through Friday.



October 2001

A Letter to Tax Practitioners About Consumer Use Tax

The Kentucky Revenue Cabinet (KRC) is asking for your assistance **in improving taxpayer compliance with Kentucky's use tax laws**. Internet usage is growing; purchases made via the Internet are also growing and the loss of sales tax receipts impacts us all, including your clients who are "main street" retailers. The Kentucky Long Term Policy Research Center estimates that the commonwealth could be losing more than \$110 million a year by 2003 due to the loss of sales tax revenue on remote sales.

A surprising statistic surfaced last year as KRC was reviewing the addition of use tax reporting to the TeleFile and 740-EZ returns. Taxpayers who used a practitioner to file their return via the Federal/State Electronic Filing Program (F/S *e-filers*) paid use tax at the lowest rate of any filing group, including TeleFile filers. To the contrary, taxpayers that *e-filed* from their home computers (O/L *e-filers*) paid use tax at a rate higher than any other filing group (3.5 times higher than the average, 22 times higher than F/S *e-filers*). These taxpayers apparently declared and paid use taxes because a software program asked, "Did you buy anything subject to use tax?"

The Cabinet believes your clients will do the same if you will ask this question and explain the tax. You may want to add a question

about catalog, online, and other remote purchases to your interview sheet used to obtain this year's income tax data or include a worksheet for listing purchases in your annual preparatory letter. However you do it, please ask each client about use tax. If you don't ask now, we may ask later. None of us wants to hear your clients say, "My practitioner never told me."

KRC has long recognized the contributions of tax practitioners to the successful administration of tax law. We also believe that the overwhelming majority of Kentuckians, when educated about their personal obligations, want to comply with the law. As tax practitioners you can make a difference in the collection of use tax, and thereby help ensure fairness for all your clients. Please use due diligence and take the extra time needed to assist your clients in complying with Kentucky's use tax laws.

Thank you for your assistance in this very important endeavor.



Dana Bynum Mayton

The mission of the Kentucky Revenue Cabinet is to...
Provide courteous, accurate and efficient services for the benefit of the Commonwealth and administer Kentucky tax laws in a fair and impartial manner.

The Kentucky Revenue Cabinet
Mission Statement

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